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July 2, 2008

(Date of Deposit)

Russell E. Fowler II

Name of person mailing Document or Fee

Russ Fowler

Signature

July 2, 2008

Date of Signature

Re:	Application of:	Keenan, Jr. et al.
	Serial No.:	10/770,351
	Filed:	February 2, 2004
	For:	Method and Device for Upgrading a Building Control System
	Group Art Unit:	2174
	Confirmation No.:	7660
	Examiner:	Steven Paul Sax
	Our Docket No.:	2003P01392US01 (1867-0042)

**TRANSMITTAL OF RESPONSE TO NOTICE OF  
NON-COMPLIANT APPEAL BRIEF**

Please find for filing in connection with the above patent application the  
following:

1. Response to Notice of Non-Compliant Appeal Brief;
2. Notice of Non-Compliant Appeal Brief; and
3. One (1) Return Post Card.

\* The fee has been calculated as shown below.

CLAIMS AS AMENDED				
	Claims Remaining After Amendment	Highest No. Paid For	Fee Calculation	Addit Fee
Total Claims	26	26	0 X 50	\$ 0.00
Independent Claims	4	4	0 X 210	\$ 0.00
Total Additional Fee Required				\$ 0.00

Please charge any fee deficiency, or credit any overpayment, to Deposit Account No. 13-0014; but not to include any payment of issue fees.

Respectfully Submitted,

MAGINOT, MOORE & BECK, LLP



July 2, 2008

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Enclosures



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,351	02/02/2004	Duane Keenan JR.	2003P01392US01	7660

7590

06/02/2008

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 06/02/2008

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

10/770,351

Applicant(s)

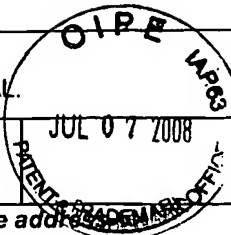
KEENAN ET AL.

Examiner

S.Sax

Art Unit

2174



*-The MAILING DATE of this communication appears on the cover sheet with the correspondence address.*

The Appeal Brief filed on 22 May 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

c(4) The brief does not contain the status of the after-final amendment filed on 1/14/08.  
The entire brief is not required, only the section that was found defective.

DARLENE BROWN  
PATENT APPEAL CENTER SPECIALIST